

PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1019

(Reference to printed bill)

Page 1, between lines 1 and 2, insert:

“Section 1. Section 33-1243, Arizona Revised Statutes, is amended to read:

33-1243. Board of directors and officers; conflict; powers; limitations; removal; annual audit; applicability

A. Except as provided in the declaration, the bylaws, subsection B or other provisions of this chapter, the board of directors may act in all instances on behalf of the association.

B. The board of directors shall not act on behalf of the association to amend the declaration, terminate the condominium, elect members of the board of directors or determine the qualifications, powers and duties or terms of office of board of directors members. The board of directors may fill vacancies in its membership for the unexpired portion of any term.

C. If any contract, decision or other action for compensation taken by or on behalf of the board of directors would benefit any member of the board of directors or any person who is a parent, grandparent, spouse, child or sibling of a member of the board of directors or a parent or spouse of any of those persons, that member of the board of directors shall declare a conflict of interest for that issue. The member shall declare the conflict in an open meeting of the board before the board discusses or takes action on that issue and that member may then vote on that issue. Any contract entered into in violation of this subsection is void and unenforceable.

D. Except as provided in the declaration, within thirty days after adoption of any proposed budget for the condominium, the board of directors shall provide a summary of the budget to all the unit owners. Unless the board of directors is expressly authorized in the declaration to adopt and amend budgets from time to time, any budget or amendment shall be ratified by the unit owners in accordance with the procedures set forth in this subsection. If ratification is required, the board of directors shall set a

1 date for a meeting of the unit owners to consider ratification of the budget  
2 not fewer than fourteen nor more than thirty days after mailing of the  
3 summary. Unless at that meeting a majority of all the unit owners or any  
4 larger vote specified in the declaration rejects the budget, the budget is  
5 ratified, whether or not a quorum is present. If the proposed budget is  
6 rejected, the periodic budget last ratified by the unit owners shall be  
7 continued until such time as the unit owners ratify a subsequent budget  
8 proposed by the board of directors.

9 E. The declaration may provide for a period of declarant control of  
10 the association, during which period a declarant or persons designated by the  
11 declarant may appoint and remove the officers and members of the board of  
12 directors. Regardless of the period provided in the declaration, a period of  
13 declarant control terminates no later than the earlier of:

14 1. Ninety days after conveyance of seventy-five per cent of the units  
15 which may be created to unit owners other than a declarant.

16 2. Four years after all declarants have ceased to offer units for sale  
17 in the ordinary course of business.

18 F. A declarant may voluntarily surrender the right to appoint and  
19 remove officers and members of the board of directors before termination of  
20 the period prescribed in subsection E, but in that event the declarant may  
21 require, for the duration of the period of declarant control, that specified  
22 actions of the association or board of directors, as described in a recorded  
23 instrument executed by the declarant, be approved by the declarant before  
24 they become effective.

25 G. Not later than the termination of any period of declarant control  
26 the unit owners shall elect a board of directors of at least three members,  
27 at least a majority of whom must be unit owners. The board of directors  
28 shall elect the officers. The board members and officers shall take office  
29 upon election.

30 H. Notwithstanding any provision of the declaration or bylaws to the  
31 contrary, the unit owners, by a majority vote of members entitled to vote and  
32 voting on the matter at a meeting of the members called pursuant to this

1 section at which a quorum is present, may remove any member of the board of  
2 directors with or without cause, other than a member appointed by the  
3 declarant. For purposes of calling for removal of a member of the board of  
4 directors, other than a member appointed by the declarant, the following  
5 apply:

6 1. In an association with one thousand or fewer members, on receipt of  
7 a petition that calls for removal of a member of the board of directors and  
8 that is signed by the number of persons who are entitled to cast at least  
9 twenty-five per cent of the votes in the association or one hundred votes in  
10 the association, whichever is less, the board shall call and provide written  
11 notice of a special meeting of the association as prescribed by section  
12 33-1248, subsection B.

13 2. Notwithstanding section 33-1248, subsection B, in an association  
14 with more than one thousand members, on receipt of a petition that calls for  
15 removal of a member of the board of directors and that is signed by the  
16 number of persons who are entitled to cast at least ten per cent of the votes  
17 in the association or one thousand votes in the association, whichever is  
18 less, the board shall call and provide written notice of a special meeting of  
19 the association. The board shall provide written notice of a special meeting  
20 as prescribed by section 33-1248, subsection B.

21 3. The special meeting shall be called, noticed and held within thirty  
22 days after receipt of the petition.

23 4. For purposes of a special meeting called pursuant to this  
24 subsection, a quorum is present if the number of owners to whom at least  
25 twenty per cent of the votes or one thousand votes, whichever is less, are  
26 allocated is present at the meeting in person or as otherwise permitted by  
27 law.

28 5. If a civil action is filed regarding the removal of a board member,  
29 the prevailing party in the civil action shall be awarded its reasonable  
30 attorney fees and costs.

31 6. The board of directors shall retain all documents and other records  
32 relating to the proposed removal of the member of the board of directors for

1 at least one year after the date of the special meeting and shall permit  
2 members to inspect those documents and records pursuant to section 33-1258.

3 7. A petition that calls for the removal of the same member of the  
4 board of directors shall not be submitted more than once during each term of  
5 office for that member.

6 8. A MEMBER WHO IS DELINQUENT IN PAYMENT OF ASSESSMENTS SHALL NOT BE  
7 BARRED FROM SIGNING A PETITION THAT CALLS FOR REMOVAL OF A BOARD MEMBER.

8 9. RETALIATORY CONDUCT AGAINST A MEMBER INITIATING A PETITION THAT  
9 CALLS FOR REMOVAL OF A MEMBER OF THE BOARD OF DIRECTORS OR A MEMBER WHO SIGNS  
10 A PETITION THAT CALLS FOR REMOVAL OF A MEMBER OF THE BOARD OF DIRECTORS IS  
11 PROHIBITED.

12 I. For an association in which board members are elected from  
13 separately designated voting districts, a member of the board of directors,  
14 other than a member appointed by the declarant, may be removed only by a vote  
15 of the members from that voting district, and only the members from that  
16 voting district are eligible to vote on the matter or be counted for purposes  
17 of determining a quorum.

18 J. Unless any provision in the condominium documents requires an  
19 annual audit by a certified public accountant, the board of directors shall  
20 provide for an annual financial audit, review or compilation of the  
21 association. The audit, review or compilation shall be completed no later  
22 than one hundred eighty days after the end of the association's fiscal year  
23 and shall be made available upon request to the unit owners within thirty  
24 days after its completion.

25 K. This section does not apply to timeshare plans or associations, or  
26 the period of declarant control under timeshare instruments, that are subject  
27 to chapter 20 of this title.”

28 Renumber to conform

29 Page 7, between lines 9 and 10, insert:

30 “Sec. 4. Section 33-1813, Arizona Revised Statutes, is amended to  
31 read:

1           33-1813. Removal of board member; special meeting

2           A. Notwithstanding any provision of the declaration or bylaws to the  
3 contrary, the members, by a majority vote of members entitled to vote and  
4 voting on the matter at a meeting of the members called pursuant to this  
5 section at which a quorum is present, may remove any member of the board of  
6 directors with or without cause, other than a member appointed by the  
7 declarant. For purposes of calling for removal of a member of the board of  
8 directors, other than a member appointed by the declarant, the following  
9 apply:

10           1. In an association with one thousand or fewer members, on receipt of  
11 a petition that calls for removal of a member of the board of directors and  
12 that is signed by the number of persons who are entitled to cast at least  
13 twenty-five per cent of the votes in the association or one hundred votes in  
14 the association, whichever is less, the board shall call and provide written  
15 notice of a special meeting of the association as prescribed by section  
16 33-1804, subsection B.

17           2. Notwithstanding section 33-1804, subsection B, in an association  
18 with more than one thousand members, on receipt of a petition that calls for  
19 removal of a member of the board of directors and that is signed by the  
20 number of persons who are entitled to cast at least ten per cent of the votes  
21 in the association or one thousand votes in the association, whichever is  
22 less, the board shall call and provide written notice of a special meeting of  
23 the association. The board shall provide written notice of a special meeting  
24 as prescribed by section 33-1804, subsection B.

25           3. The special meeting shall be called, noticed and held within thirty  
26 days after receipt of the petition.

27           4. For purposes of a special meeting called pursuant to this  
28 subsection, a quorum is present if the number of owners to whom at least  
29 twenty per cent of the votes or one thousand votes, whichever is less, are  
30 allocated is present at the meeting in person or as otherwise permitted by  
31 law.

1           5. If a civil action is filed regarding the removal of a board member,  
2 the prevailing party in the civil action shall be awarded its reasonable  
3 attorney fees and costs.

4           6. The board of directors shall retain all documents and other records  
5 relating to the proposed removal of the member of the board of directors for  
6 at least one year after the date of the special meeting and shall permit  
7 members to inspect those documents and records pursuant to section 33-1805.

8           7. A petition that calls for the removal of the same member of the  
9 board of directors shall not be submitted more than once during each term of  
10 office for that member.

11           8. A MEMBER WHO IS DELINQUENT IN PAYMENT OF ASSESSMENTS SHALL NOT BE  
12 BARRED FROM SIGNING A PETITION THAT CALLS FOR REMOVAL OF A BOARD MEMBER.

13           9. RETALIATORY CONDUCT AGAINST A MEMBER INITIATING A PETITION THAT  
14 CALLS FOR REMOVAL OF A MEMBER OF THE BOARD OF DIRECTORS OR A MEMBER WHO SIGNS  
15 A PETITION THAT CALLS FOR REMOVAL OF A MEMBER OF THE BOARD OF DIRECTORS IS  
16 PROHIBITED.

17           B. For an association in which board members are elected from  
18 separately designated voting districts, a member of the board of directors,  
19 other than a member appointed by the declarant, may be removed only by a vote  
20 of the members from that voting district, and only the members from that  
21 voting district are eligible to vote on the matter or be counted for purposes  
22 of determining a quorum.”

23       Renumber to conform

24       Amend title to conform

JACK W. HARPER

1/30/08  
12:31 PM  
S: BB/ac